

LEGISLATURE OF THE STATE OF IDAHO
Sixty-third Legislature First Regular Session - 2015

IN THE SENATE

SENATE BILL NO. 1101

BY HEALTH AND WELFARE COMMITTEE

AN ACT

RELATING TO INDIGENT SICK; AMENDING SECTION 31-3501, IDAHO CODE, TO REVISE THE DECLARATION OF POLICY RELATING TO WHO IS ELIGIBLE FOR THE COUNTY MEDICALLY INDIGENT PROGRAM AND CATASTROPHIC HEALTH CARE COST PROGRAM; AMENDING SECTION 31-3502, IDAHO CODE, TO DEFINE A TERM AND TO REVISE A DEFINITION; AMENDING SECTION 67-7903, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AND PROVIDING AN EFFECTIVE DATE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 31-3501, Idaho Code, be, and the same is hereby amended to read as follows:

31-3501. DECLARATION OF POLICY. (1) It is the policy of this state that each person, to the maximum extent possible, is responsible for his or her own medical care and that of his or her dependents and to that end, shall be encouraged to purchase his or her own medical insurance with coverage sufficient to prevent ~~them~~ him or her from needing to request assistance pursuant to this chapter. As such, the county medically indigent program and the catastrophic health care cost program shall not be responsible for any individual over one hundred thirty-eight percent (138%) of the current established federal poverty level. Furthermore, these programs shall not be responsible for any individual between one hundred percent (100%) and one hundred thirty-eight percent (138%) of the current established federal poverty level, except in certain limited circumstances pursuant to this chapter. However, in order to safeguard the public health, safety and welfare, and to provide suitable facilities and provisions for the care and hospitalization of persons in this state, and, in the case of medically indigent residents, to provide for the payment thereof, the respective counties of this state, and the board and the department shall have the duties and powers as hereinafter provided.

(2) The county medically indigent program and the catastrophic health care cost program are payers of last resort. Therefore, applicants or third party applicants seeking financial assistance under the county medically indigent program and the catastrophic health care cost program shall be subject to the limitations and requirements as set forth herein.

SECTION 2. That Section 31-3502, Idaho Code, be, and the same is hereby amended to read as follows:

31-3502. DEFINITIONS. As used in this chapter, the terms defined in this section shall have the following meaning, unless the context clearly indicates another meaning:

(1) "Applicant" means any person who is requesting financial assistance under this chapter.

1 (2) "Application" means the combined application for state and county
2 medical assistance pursuant to sections 31-3504 and 31-3503E, Idaho Code.
3 In this chapter an application for state and county medical assistance shall
4 also mean an application for financial assistance.

5 (3) "Board" means the board of the catastrophic health care cost pro-
6 gram, as established in section 31-3517, Idaho Code.

7 (4) "Case management" means coordination of services to help meet a pa-
8 tient's health care needs, usually when the patient has a condition that re-
9 quires multiple services.

10 (5) "Catastrophic health care costs" means the cost of necessary medi-
11 cal services received by a recipient that, when paid at the then existing re-
12 imbursement rate, exceeds the total sum of eleven thousand dollars (\$11,000)
13 in the aggregate in any consecutive twelve (12) month period.

14 (6) "Clerk" means the clerk of the respective counties or his or her de-
15 signee.

16 (7) "Completed application" shall include at a minimum the cover sheet
17 requesting services, applicant information including diagnosis and re-
18 quests for services and signatures, personal and financial information of
19 the applicant and obligated person or persons, patient rights and responsi-
20 bilities, releases and all other signatures required in the application.

21 (8) "County commissioners" means the board of county commissioners in
22 their respective counties.

23 (9) "County hospital" means any county approved institution or facil-
24 ity for the care of sick persons.

25 (10) "Department" means the department of health and welfare.

26 (11) "Dependent" means any person whom a taxpayer claims as a dependent
27 under the income tax laws of the state of Idaho.

28 (12) "Emergency service" means a service provided for a medical condi-
29 tion in which sudden, serious and unexpected symptoms of illness or injury
30 are sufficiently severe to necessitate or call for immediate medical care,
31 including, but not limited to, severe pain, that the absence of immediate
32 medical attention could reasonably be expected by a prudent person who pos-
33 sesses an average knowledge of health and medicine, to result in:

34 (a) Placing the patient's health in serious jeopardy;

35 (b) Serious impairment to bodily functions; or

36 (c) Serious dysfunction of any bodily organ or part.

37 (13) "Federal poverty level" means current poverty guidelines issued by
38 the department of health and human services to determine whether an individ-
39 ual is eligible for assistance.

40 (14) "Hospital" means a facility licensed and regulated pursuant to
41 sections 39-1301 through 39-1314, Idaho Code, or an out-of-state hospital
42 providing necessary medical services for residents of Idaho, wherein a re-
43 ciprocal agreement exists, in accordance with section 31-3503B, Idaho Code,
44 excluding state institutions.

45 (145) "Medicaid eligibility review" means the process used by the de-
46 partment to determine whether a person meets the criteria for medicaid cov-
47 erage.

48 (156) "Medical claim" means the itemized statements and standard forms
49 used by hospitals and providers to satisfy centers for medicare and medicaid
50 services (CMS) claims submission requirements.

(167) "Medical home" means a model of primary and preventive care delivery in which the patient has a continuous relationship with a personal physician in a physician directed medical practice that is whole person oriented and where care is integrated and coordinated.

(178) "Medically indigent" means any person who is in need of necessary medical services and who, if an adult, together with his or her spouse, or whose parents or guardian, if the patient is a minor or dependent, does not have income and other resources available to him from whatever source sufficient to pay for necessary medical services. For purposes of this chapter, a person may be medically indigent if he is at or below one hundred percent (100%) of the current established federal poverty level. A person cannot be determined medically indigent if he is over one hundred thirty-eight percent (138%) of the current established federal poverty level. A person is not medically indigent if he is between one hundred percent (100%) and one hundred thirty-eight percent (138%) of the current established federal poverty level, unless the person experiences a qualifying event, pursuant to the patient protection and affordable care act, 42 U.S.C. section 18001, and is unable to purchase insurance between the time coverage was lost and the time allowed by such insurance to become reenrolled.

Nothing in this definition shall prevent the board and the county commissioners from requiring the applicant and obligated persons to reimburse the county and the catastrophic health care cost program, where appropriate, for all or a portion of their medical expenses, when investigation of their application pursuant to this chapter, determines their ability to do so.

(189) A. "Necessary medical services" means health care services and supplies that:

- (a) Health care providers, exercising prudent clinical judgment, would provide to a person for the purpose of preventing, evaluating, diagnosing or treating an illness, injury, disease or its symptoms;
- (b) Are in accordance with generally accepted standards of medical practice;
- (c) Are clinically appropriate, in terms of type, frequency, extent, site and duration and are considered effective for the covered person's illness, injury or disease;
- (d) Are not provided primarily for the convenience of the person, physician or other health care provider; and
- (e) Are the most cost-effective service or sequence of services or supplies, and at least as likely to produce equivalent therapeutic or diagnostic results for the person's illness, injury or disease.

B. Necessary medical services shall not include the following:

- (a) Bone marrow transplants;
- (b) Organ transplants;
- (c) Elective, cosmetic and/or experimental procedures;
- (d) Services related to, or provided by, residential, skilled nursing, assisted living and/or shelter care facilities;
- (e) Normal, uncomplicated pregnancies, excluding caesarean section, and childbirth well-baby care;
- (f) Medicare copayments and deductibles;

(g) Services provided by, or available to, an applicant from state, federal and local health programs;

(h) Medicaid copayments and deductibles; and

(i) Drugs, devices or procedures primarily utilized for weight reduction and complications directly related to such drugs, devices or procedures.

~~(1920)~~ "Obligated person" means the person or persons who are legally responsible for an applicant including, but not limited to, parents of minors or dependents.

~~(201)~~ "Primary and preventive health care" means the provision of professional health services that include health education and disease prevention, initial assessment of health problems, treatment of acute and chronic health problems and the overall management of an individual's health care services.

~~(212)~~ "Provider" means any person, firm or corporation certified or licensed by the state of Idaho or holding an equivalent license or certification in another state, that provides necessary medical services to a patient requesting a medically indigent status determination or filing an application for financial assistance.

~~(223)~~ "Recipient" means an individual determined eligible for financial assistance under this chapter.

~~(234)~~ "Reimbursement rate" means the unadjusted medicaid rate of reimbursement for medical charges allowed pursuant to title XIX of the social security act, as amended, that is in effect at the time service is rendered. The "reimbursement rate" shall mean ninety-five percent (95%) of the unadjusted medicaid rate.

~~(245)~~ "Resident" means a person with a home, house, place of abode, place of habitation, dwelling or place where he or she actually lived for a consecutive period of thirty (30) days or more within the state of Idaho. A resident does not include a person who comes into this state for temporary purposes, including, but not limited to, education, vacation, or seasonal labor. Entry into active military duty shall not change a person's residence for the purposes of this chapter. Those physically present within the following facilities and institutions shall be residents of the county where they were residents prior to entering the facility or institution:

(a) Correctional facilities;

(b) Nursing homes or residential or assisted living facilities;

(c) Other medical facility or institution.

~~(256)~~ "Resources" means all property, for which an applicant and/or an obligated person may be eligible or in which he or she may have an interest, whether tangible or intangible, real or personal, liquid or nonliquid, or pending, including, but not limited to, all forms of public assistance, crime victims compensation, worker's compensation, veterans benefits, medicaid, medicare, supplemental security income (SSI), third party insurance, other insurance or apply for section 1011 of the medicare modernization act of 2003, if applicable, and any other property from any source. Resources shall include the ability of an applicant and obligated persons to pay for necessary medical services, excluding any interest charges, over a period of up to five (5) years starting on the date necessary medical services are first provided. For purposes of determining approval for medical indigency

only, resources shall not include the value of the homestead on the applicant or obligated person's residence, a burial plot, exemptions for personal property allowed in section 11-605(1) through (3), Idaho Code, and additional exemptions allowed by county resolution.

(267) "Third party applicant" means a person other than an obligated person who completes, signs and files an application on behalf of a patient. A third party applicant who files an application on behalf of a patient pursuant to section 31-3504, Idaho Code, shall, if possible, deliver a copy of the application to the patient within three (3) business days after filing the application.

(278) "Third party insurance" means casualty insurance, disability insurance, health insurance, life insurance, marine and transportation insurance, motor vehicle insurance, property insurance or any other insurance coverage that may pay for a resident's medical bills.

(289) "Utilization management" means the evaluation of medical necessity, appropriateness and efficiency of the use of health care services, procedures and facilities. "Utilization management" may include, but is not limited to, preadmission certification, the application of practice guidelines, continued stay review, discharge planning, case management, preauthorization of ambulatory procedures, retrospective review and claims review. "Utilization management" may also include the amount to be paid based on the application of the reimbursement rate to those medical services determined to be necessary medical services.

SECTION 3. That Section 67-7903, Idaho Code, be, and the same is hereby amended to read as follows:

67-7903. VERIFICATION OF LAWFUL PRESENCE -- EXCEPTIONS -- REPORTING. (1) Except as otherwise provided in subsection (3) of this section or where exempted by federal law, each agency or political subdivision of this state shall verify the lawful presence in the United States of each natural person eighteen (18) years of age or older who applies for state or local public benefits or for federal public benefits for the applicant.

(2) This section shall be enforced without regard to race, religion, gender, ethnicity or national origin.

(3) Verification of lawful presence in the United States shall not be required:

(a) For any purpose for which lawful presence in the United States is not required by law, ordinance or rule;

(b) For obtaining health care items and services that are necessary for the treatment of an emergency medical condition of the person involved and are not related to an organ transplant procedure;

(c) For short-term, noncash, in-kind emergency disaster relief;

(d) For public health assistance for immunizations with respect to immunizable diseases and testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease;

(e) For programs, services or assistance, such as soup kitchens, crisis counseling and intervention and short-term shelter specified by federal law or regulation that:

- (i) Deliver in-kind services at the community level, including services through public or private nonprofit agencies;
- (ii) Do not condition the provision of assistance, the amount of assistance provided or the cost of assistance provided on the individual recipient's income or resources; and
- (iii) Are necessary for the protection of life or public safety;
- (f) For prenatal care;
- (g) For postnatal care not to exceed twelve (12) months; or
- (h) For food assistance for a dependent child under eighteen (18) years of age.

Notwithstanding the provisions of this subsection (3), for the county indigent program, the limitations contained in section 31-3502(189)B., Idaho Code, shall apply.

(4) An agency or a political subdivision shall verify the lawful presence in the United States of each applicant eighteen (18) years of age or older for federal public benefits or state or local public benefits by:

- (a) Employing electronic means to verify an applicant is legally present in the United States; or
- (b) Requiring the applicant to provide:

- (i) An Idaho driver's license or an Idaho identification card issued pursuant to section 49-2444, Idaho Code;
- (ii) A valid driver's license or similar document issued for the purpose of identification by another state or territory of the United States, if such license or document contains a photograph of the individual or such other personal identifying information relating to the individual that the director of the department of health and welfare or, with regard to unemployment compensation benefits, the director of the department of labor finds, by rule, sufficient for purposes of this section;
- (iii) A United States military card or a military dependent's identification card;
- (iv) A United States coast guard merchant mariner card;
- (v) A native American tribal document;
- (vi) A copy of an executive office of immigration review, immigration judge or board of immigration appeals decision, granting asylee status;
- (vii) A copy of an executive office of immigration review, immigration judge or board of immigration appeals decision, indicating that the individual may lawfully remain in the United States;
- (viii) Any United States citizenship and immigration service issued document showing refugee or asylee status or that the individual may lawfully remain in the United States;
- (ix) Any department of state or customs and border protection issued document showing the individual has been permitted entry into the United States on the basis of refugee or asylee status, or on any other basis that permits the individual to lawfully enter and remain in the United States; or
- (x) A valid United States passport; and
- (c) Requiring the applicant to provide a valid social security number that has been assigned to the applicant; and

(d) Requiring the applicant to attest, under penalty of perjury and on a form designated or established by the agency or the political subdivision, that:

(i) The applicant is a United States citizen or legal permanent resident; or

(ii) The applicant is otherwise lawfully present in the United States pursuant to federal law.

(5) Notwithstanding the requirements of subsection (4) (b) of this section, the agency or political subdivision may establish by appropriate legal procedure such rules or regulations to ensure that certain individuals lawfully present in the United States receive authorized benefits including, but not limited to, homeless state citizens.

(6) For an applicant who has attested pursuant to subsection (4) (d) of this section stating that the applicant is an alien lawfully present in the United States, verification of lawful presence for federal public benefits or state or local public benefits shall be made through the federal systematic alien verification of entitlement program, which may be referred to as the "SAVE" program, operated by the United States department of homeland security or a successor program designated by the United States department of homeland security. Until such verification of lawful presence is made, the attestation may be presumed to be proof of lawful presence for purposes of this section.

(a) Errors and significant delays by the SAVE program shall be reported to the United States department of homeland security to ensure that the application of the SAVE program is not wrongfully denying benefits to legal residents of this state.

(b) Agencies or political subdivisions may adopt variations of the requirements of subsection (4) (d) of this section to improve efficiency or reduce delay in the verification process or to provide for adjudication of unique individual circumstances in which the verification procedures in this section would impose unusual hardship on a legal resident of this state; except that the variations shall be no less stringent than the requirements of subsection (4) (d) of this section.

(c) A person who knowingly makes a false, fictitious or fraudulent statement or representation in an attestation executed pursuant to subsection (4) (d) or (6) (b) of this section or who knowingly provides a social security number that has not been assigned to him pursuant to subsection (4) (c) of this section shall be:

(i) Guilty of a misdemeanor for the first and second offense; and

(ii) Guilty of a felony for each subsequent offense.

(7) An agency or political subdivision may accept as prima facie evidence of an applicant's lawful presence in the United States the information required in subsection (4) of this section, as may be modified by subsection (5) of this section, when issuing a professional license or a commercial license.

SECTION 4. This act shall be in full force and effect on and after March 1, 2016.